

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 201910243	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/09/2019 1:00 PM, Saturday, 03/09/2019 1:15 PM	Location of Incident: Intersection of Broadway and Lispenard Street; 1st Precinct stationhouse	Precinct: 01	18 Mo. SOL 9/9/2020	EO SOL 4/26/2021	
Date/Time CV Reported Tue, 11/26/2019 11:50 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 11/26/2019 11:50 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Dinah Bodden	18500	927750	001 PCT
2. An Officer			001 PCT
3. SGT Eugene Cummings	2341	929974	001 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Eugene Cummings	Force: At the intersection of Broadway and Lispenard Street in Manhattan, Sergeant Eugene Cummings used physical force against § 87(2)(b)	
B.POF Dinah Bodden	Force: At the intersection of Broadway and Lispenard Street in Manhattan, Police Officer Dinah Bodden used physical force against § 87(2)(b)	
C.SGT Eugene Cummings	Abuse: At the 1st Precinct stationhouse in Manhattan, Sergeant Eugene Cummings took a photograph of § 87(2)(b)	
D. An Officer	Abuse: At the 1st Precinct stationhouse in Manhattan, an officer damaged § 87(2)(b)'s property.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On November 26, 2019, § 87(2)(b) filed this complaint with the CCRB in person.

On March 9, 2019, at approximately 1 p.m., Sgt. Eugene Cummings and PO Dinah Boden, both of the 1st Precinct, approached § 87(2)(b) at the intersection of Broadway and Lisenard Street in Manhattan. Sgt. Cummings held § 87(2)(b) against a car, while PO Boden handcuffed § 87(2)(b) who was under arrest for the unlicensed sale of counterfeit items, (**Allegations A and B: Force – Physical Force**, § 87(2)(g)). At the 1st Precinct, Sgt. Cummings allegedly took a photograph of § 87(2)(b) which § 87(2)(b) suspected he sent to another officer (**Allegation C: Abuse of Authority – Photography/Videography**, § 87(2)(g)). When PO Boden released him later that same day with a DAT (**BR 01**), § 87(2)(b) saw that the case to his cell phone, which had previously been intact, was damaged (**Allegation D: Abuse of Authority – Property Damaged**, § 87(2)(g)).

§ 87(2)(g), § 87(4-b)

§ 87(2)(g), § 87(4-b)

Body-worn camera footage was obtained from PO Boden (**BR 02** and **BR 03**). There was no other video of the incident.

Findings and Recommendations

Allegation (A) Force: At the intersection of Broadway and Lisenard Street in Manhattan, Sergeant Eugene Cummings used physical force against § 87(2)(b)

Allegation (B) Force: At the intersection of Broadway and Lisenard Street in Manhattan, Police Officer Dinah Boden used physical force against § 87(2)(b)

It was undisputed that on March 9, 2019, at approximately 1 p.m., at the intersection of Broadway and Lisenard Street in Manhattan, Sgt. Cummings and PO Boden arrested § 87(2)(b) for the § 87(2)(b) (**BR 01**). It was also undisputed that Sgt. Cummings pushed § 87(2)(b) against a car upon the initial approach and that PO Boden pulled § 87(2)(b)'s hands behind his back when she handcuffed him.

§ 87(2)(b) (**BR 04**) stated that Sgt. Cummings approached him from his left side, and, without first identifying himself as a police officer or issuing any instruction, put his hand on § 87(2)(b)'s left forearms and upper body and pushed him to his right so that the right side of his body was against a car immediately next to him. An officer then handcuffed § 87(2)(b) without explaining why they approached him, searched him, and called for additional officers to transport § 87(2)(b) to the first Precinct. § 87(2)(b) did not sustain any pain or injuries as a result of the contact.

Sgt. Cummings (**BR 05**) and PO Boden (**BR 06**) provided consistent statements. Sgt. Cummings approached § 87(2)(b) from the side because he did not want § 87(2)(b) to recognize him as an officer and attempt to flee the location. Sgt. Cummings, who was a few feet in front of PO Boden, pushed § 87(2)(b) slightly to the side to hold him still until PO Boden could handcuff him. PO Boden did not see Sgt. Cummings push § 87(2)(b) but she arrived a few seconds later to see Sgt. Cummings holding § 87(2)(b)'s arms behind his back so she could handcuff him. PO Boden took § 87(2)(b)'s wrists, and, when he tensed his arms to hold them apart, she pulled his wrists together and handcuffed him.

PO Boden's body-worn camera footage of this incident (**BR 02**) does not begin until after she handcuffs § 87(2)(b). § 87(2)(b)'s arrest report (**BR 01**) and the command log (**BR 07**) do not note any injuries.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Patrol Guide procedure 221-01 (**BR 08**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.

§ 87(2)(g)

Allegation (C) Abuse of Authority: At the 1st Precinct stationhouse in Manhattan, Sergeant Eugene Cummings took a photograph of § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) (**BR 02**) stated that when he got to the 1st Precinct stationhouse, Sgt. Cummings took his arrest photograph and then told him that he also needed to take a picture of him with his department cell phone to send to another officer. Sgt. Cummings then took a picture of § 87(2)(b) with his cell phone. § 87(2)(b) did not know who Sgt. Cummings sent the photograph to, but assumed it was an officer who had previously arrested him in November 2018. § 87(2)(b) was not sure if Sgt. Cummings actually sent the photograph.

PO Bodden (**BR 06**) and Sgt. Cummings (**BR 05**) provided consistent statements regarding § 87(2)(b)'s processing at the 1st Precinct stationhouse. After registering § 87(2)(b) at the front desk, PO Bodden took § 87(2)(b) to the holding pen area where she fingerprinted § 87(2)(b) and took his arrest photograph using the computerized system. While drafting § 87(2)(b)'s arrest paperwork, PO Bodden and Sgt. Cummings received a phone call from the ADA assigned to one of § 87(2)(b)'s previous arrests. This ADA requested that § 87(2)(b)'s cell phone be vouchered as arrest evidence, which PO Bodden and Sgt. Cummings did. They then released § 87(2)(b) with a desk appearance ticket (**BR 01**).

Sgt. Cummings did not recall taking § 87(2)(b)'s photograph with his cell phone and denied sending a photograph of § 87(2)(b) to any officers or to the ADA. PO Bodden did not see Sgt. Cummings take any photographs of § 87(2)(b) with his cell phone, and she denied ever doing this or sending any photographs of § 87(2)(b) to any officers or the ADA.

PO Bodden and Sgt. Cummings consistently stated that while preparing § 87(2)(b)'s arrest paperwork, they were contacted by the ADA, who requested that they voucher § 87(2)(b)'s cell phone. Although § 87(2)(b) stated that Sgt. Cummings took his arrest photograph and then also took a photograph with his cell phone to send to another officer, Sgt. Cummings had no recollection of doing this, and PO Bodden did not see Sgt. Cummings do this. Sgt. Cummings denied sending a photograph of § 87(2)(b) to anyone, and § 87(2)(b) was not sure that Sgt. Cummings had sent the photograph to anyone.

§ 87(2)(g)

Allegation (D) Abuse of Authority: At the 1st Precinct stationhouse in Manhattan, an officer damaged § 87(2)(b)'s property.

§ 87(2)(b) (**BR 04**) stated that when he was released, his cell phone case, which had been intact and not damaged prior to his interaction with police, was cracked. § 87(2)(b) did not see who caused the damage or how the damage was caused.

Sgt. Cummings (**BR 07**) and PO Bodden (**BR 08**) consistently stated that they did not cause any damage to § 87(2)(b)'s cell phone case and did not have any recollection of there being any damage to the cell phone case.

A property voucher for § 87(2)(b)'s cell phone (**BR 10**) states that there was no damage

to the cell phone, but does not note the condition of the case, which was not vouchered.

Body-worn camera footage from PO Bodden (**BR 02**), at 00:23 seconds, shows PO Bodden remove § 87(2)(b)'s cell phone from his pants pocket. The protective case has general wear on the outer edges but shows no other damage. The interior of the case is not visible. Body-worn camera footage does not capture the cell phone, or its case, sustain any damage while in police custody.

Although § 87(2)(b) stated that his cell phone's protective case sustained damage to the screen while in police custody, § 87(2)(b) did not see how this occurred or which officer was responsible. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
 - § 87(2)(b)
- Sgt. Cummings has been a member of service for 18 years and has been a subject in two CCRB cases with a total of four allegations, none of which was substantiated. § 87(2)(g)
- PO Bodden has been a member of service for 19 years and has been a subject in two CCRB cases with a total of three allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of February 13, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (**BR 12**).

- § 87(2)(b), § 87(2)(c)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 10

Investigator: Maura R. Roche SI Maura R. Roche 08/03/2020
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 8/4/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date